

APPEAL NO. 042388  
FILED NOVEMBER 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 26, 2004. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_, extends to include an aggravation of the degenerative disc disease, herniated disc at L5-S1, and L5-S1 internal disc disruptive syndrome. The appellant (carrier) appeals, contending that the claimant failed to meet his burden of proof and that there is insufficient evidence to support the hearing officer's decision. The claimant responds that the evidence supports the hearing officer's decision.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury when he fell off of the top of a truck. The parties stipulated that the carrier waived the right to contest the Texas Workers' Compensation Commission's order extending the date of statutory maximum medical improvement. The disputed issue regarding the extent of the claimant's compensable injury was a fact question for the hearing officer to determine from the evidence presented at the CCH. There are medical opinions in evidence which support the hearing officer's determination on the extent issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The aggravation of a preexisting condition during the course and scope of employment has been held to be a compensable injury for purposes of the 1989 Act. Peterson v. Continental Casualty Company, 997 S.W.2d 893 (Tex. App.-Houston [1st Dist.] 1999, no pet.). We conclude that the hearing officer's determination on the issue of the extent of the claimant's compensable injury is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **NATIONAL AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**STEPHEN C. CARLIN  
13155 NOEL ROAD, SUITE 900  
THREE GALLERIA TOWER  
DALLAS, TEXAS 75240-6882.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge